

## UNTERMYER SHOWS FARE PLAN IS LEGAL

Court of Appeals Cited in  
Combating McAneny's  
Chief Objections.

LEAVES NO OBSTACLE

If City Can Lend \$250,000-  
000 for New Tubes It Can  
Operate Going Ones.

WAY OPEN FOR JUST PLAN

Transit Board Orders Trip  
Tests of Lines to Get Facts  
on Traffic.

Samuel Untermyer yesterday replied to the criticisms of his transit plan offered by George McAneny, chairman of the Transit Commission, who held that Mr. Untermyer's basic suggestion that a return upon the actual value of the transit properties to make good deficits in operation was open to serious constitutional objection, if not economically unsound.

Mr. Untermyer said that before delivering his criticism of the Transit Commission's plan at the City Club Thursday night he had given full consideration to every constitutional aspect of his alternative suggestion, and that there are no legal objections thereto. In this contention Mr. Untermyer says he is supported by Louis Marshall, his associate, and in this connection points out that Chairman McAneny is not a lawyer.

If the city is without power to guarantee the transit company against operating deficits in return for the maintenance of a five cent fare, Mr. Untermyer questions its authority to lend \$250,000,000, which represents the city's share of the new subways.

### Open Discussion Beneficial.

Referring to Mr. McAneny's suggestion of constitutional defects in his suggestions Mr. Untermyer said:

"The advantages of open discussion become more and more manifest as we proceed.

"There are no constitutional or legal objections whatever to the plan suggested by me, and with all due respect to Mr. McAneny there is no doubt whatever of the legality of each and every feature of the plan I have suggested. All such doubts are settled long ago in the *Admiral Realty Company* case in the Court of Appeals in which I and the present special counsel for the Commission participated on the same side. If we had then succeeded (as we should have) in the same contention that Mr. McAneny now makes, the city would have saved the \$250,000,000 that it now has devoted to the subways, the payment of which the Commission now proposes to secure by possible increased fares to be levied on the backs of the users of the system.

"Mr. McAneny is, as we all know, a man of fine intelligence, but he is not a lawyer. It would be interesting to learn the identity of the lawyer who will stand sponsor for Mr. McAneny's 'constitutional objections.' Mr. Louis Marshall, who is recognized throughout the country as one of the greatest lawyers in America, is in full accord with me that there is nothing whatever in either of the two objections."

Mr. Untermyer's statement dealt first with Mr. McAneny's suggestion that the city was without power to guarantee the transit companies against loss through deficits in operation, as contemplated in his suggestion.

### A Question of "City Purpose."

The statement issued by Mr. Untermyer follows in part:

"It is said that the city has no power to guarantee to lend the new transit company the money with which to make good any deficits in operation, in that improbable event, which no one contemplates. I repeat Mr. McAneny's words: 'While provision for transit is a city purpose, it seems clear that the city is prohibited from guaranteeing interest upon the securities to be issued in payment for the properties.'"

"Assume that statement of the law to be correct—when it is not—I have made no such proposition of anything like it. I am not suggesting that the city lend the money to make good any part of the interest on bonds to be given for the property or on any other bonds. Nothing is further from my thought. My proposal is to make good only possible deficits from operation, which everybody agrees are not likely to occur. Does Mr. McAneny suggest that the operation of the system is not a city purpose?"

"If the city has its constitutional power to make good these deficits in operation, its own property which does it get the authority under the commission's plan to lend the \$250,000,000 to build new subways? If so, is it for a city purpose, surely the other is much more so. Keeping in operation the roads already built by making temporary loans to meet deficits in the operation of the city's own subways would appear to the average mind very much more like a city purpose than lending the money to build new subways."

"If that is the best objection that the commission can urge for its failure to lend the money guaranteeing a 5 cent fare the situation begins to look very hopeful. Mr. McAneny has apparently misunderstood that part of my plan. If that position is persisted in by the commission I undertake to overwhelm it with legal authority to the contrary."

"I note also that in answer to my objection to the plan that, unlike the present railway security holders who receive no bonds other for its present or future investment, and is accordingly to have no vote, thus giving the entire vote to the railway security holders on their bonds, Mr. McAneny suggests that: 'This same constitutional provision would prohibit the city from taking or holding bonds of the consolidated company as representing its investment in the subways.'"

"Surely that cannot be seriously meant. If it were put forth by anybody in whose absolute good faith and intellectual integrity and sincerity I had less confidence, I would characterize it as a revolting beyond argument and leave it at that. Surely nobody could have given such advice!"

### City's Power to Lend Money.

"It is suggested that since the city has the power to quote the words of the Constitution: 'The city may lend the money for the purpose of credit' raised the question of its power to lend only

its credit to make good operating deficits for a city purpose." "It would not have the right to exact and receive bonds or other evidences of the debt? The plan proceeds on the assumption that the city may lend the money for new subways and receive interest on that loan and a sinking fund to retire the debt. While we are now told that all this is within the power and while it is now stated that the city makes an agreement for the payment of the interest and the redemption of the principal of the debt, it is now argued that the city may not take the same evidences of debt as it gives to other creditors similarly situated—in bonds. "And pray why not? I can find nothing quite so preposterous in the constitutional provision in question. On the contrary, the power to lend money for transit purposes necessarily implies, of course, the power to take security for the loan."

"After studying the plan I wondered why the city was being excluded from receiving the same security that the railway owners were getting for the same sort of debt and why the city was getting no bonds for its new money, the result of which was that while the bonds issued to the private owners gave them the vote, the voting power in the operating companies, the city, with more money at stake than all of them put together, had no vote and so say whatever."

**Handy Excuse for Evason.**  
"Now I understand! Mr. McAneny has explained! It. The Constitution, as usual, is in the way. It is never in the way of the city paying money, but it is always comes handy when the city is to get anything in return. Well, if that is all that stands in the way of the city securing the representation on its debt to which it is entitled, the path is wide open to something that particular glaring injustice in the plan."

"And so we are getting on famously with the making of a better plan in this state of progress I believe that in the end we shall succeed in evolving a just plan that will guarantee a five cent fare and protect the rights of the city. Thus equipped, we shall confront the question of whether the roads will take that sort of a plan. My answer is that if they don't take it there is ample pressure at hand that can be justly brought to bear to make them feel glad and fortunate to get it, if the commission or the city will exercise that pressure, which they will then be more than justified in doing."

"The wisdom of the commission in announcing that it has and will keep an open mind becomes more and more manifest as the discussion proceeds. Let us hope that it will continue to open wider and wider until the commission can see still more clearly the city's side of this problem. Then we shall reap results."

As a preliminary to the unification of the transit lines of the city, as contemplated by the Transit Commission, announcement was made yesterday of plans for a comprehensive "trip count" study of surface traffic currents in the five boroughs. This will be undertaken to afford data whereon the commission may determine what lines shall be retained, and what, if any, scrapped.

**Some Lines to Be Dropped.**  
The ultimate plan for the relief of New York's transit life will, in the opinion of experts, necessitate the discontinuance of several little used and unimportant lines. The contemplated "trip count" study is to be made in an attempt to determine just what actual use is made of each surface line in the city, whether a through route or an intermediate method of travel. The assistance of the public is urgently requested in the forthcoming study of surface conditions which will be begun in Manhattan and extended to the other four boroughs. Extensive preparations have been made and some preliminary tentative counts already completed.

Each surface line is to be taken up separately. Signs will be posted in each of the cars where inspections are to take place for several days prior to the beginning of the counts. These will be of an informative character, stating the reason for the count and urging the assistance of the public. Cards have been printed which will be handed to passengers on each of the lines involved. These will request information regarding the lines the passenger ordinarily uses getting to his destination, the number of transfers required, the name of the street corner at which his trip begins and the corner of final destination.

The passengers also will be requested to inform the Transit Commission's inspectors whether he paid a cash fare on the car in which the count is taken or whether he presented a two cent or a free transfer.

**Klein Defends Mayor Hylan.**  
Henry H. Klein, Deputy Commissioner of the Department of Public Works, speaking before a meeting of the Wholesale Dryers and Cleaners Association in Burger's Casino in Avenue C, last night, denounced Mr. Untermyer's criticism of the Hylan administration's traction policies and charged that the Interborough Rapid Transit Company for months had employed private detectives to "shadow" Mayor Hylan and charged the cost of such service against the contract between the Interborough and the city.

The lawyers of the Interborough, Mr. Klein said, had been actively searching for precedents looking toward the removal of Mayor Hylan, particularly since the strike of 1919, when Mr. Klein charged was instigated by the company in an effort to compel Mayor Hylan to agree to an increased fare.

The attacks of Mr. Untermyer on Mayor Hylan and his handling of the traction problem are actuated by personal spite, according to Mr. Klein. Untermyer and the Mayor, Mr. Klein told his audience, were good friends in 1917, so much so, he added, that Mr. Untermyer procured the appointment of Frederick H. Hughes as Police Commissioner. Hughes, it will be recalled, resigned after twenty-three days' service, giving as his reason Mayor Hylan's insistence on dictating the appointment of his deputy commissioners.

**EX-KAISER BECOMES  
HIS OWN GARDENER**

*By the Associated Press.*  
Dooms, Holland, Oct. 15.—The slum in the German Empire is being affected by the former German Emperor, who is reducing his household and taking other radical measures to economize. Twenty members of his staff were dismissed, including the chief gardener whose place has been taken by William himself.

Gen. von Gontard, his first chamberlain, today gave out statement saying that William's financial position would no longer allow him to give monetary support to many of the poor of Holland and Germany who continually apply at Doorn Castle for aid.

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Per Capita Expense to  
Citizens.

There are only two of the ten great  
cities of the United States where the  
per capita cost of municipal government

is greater than in this city. The two are Boston and Pittsburgh. According to an investigation made by the National Security League, it costs every citizen of Boston \$25.00 a year to keep his local government going. Pittsburgh, second in point of cost, draws upon every taxpayer citizen for \$23.81. The figures for New York, third in the cost line, are \$23.34.

Baltimore is the most economical of the cost of municipal government, taxing its citizens only \$18.96 a head. After New York, the ranking is: Los Angeles, Philadelphia, St. Louis, Chicago, Detroit, Cleveland and Baltimore.

Boston spends more on its police force than any of the other big cities, \$8.75 per capita. New York comes sec-

ond here, with \$3.50, and Philadelphia third, with \$2.26. The police of Cleveland cost the taxpayers much less per capita, \$1.79. Boston tops all expense lists, taxing its citizens \$2.74 apiece for fire protection, while New York spends only \$1.94 per head for that service. Philadelphia is the most economical as regards fire protection, \$1.20 per head.

"Federal disbursements average over \$250 annually for each American family," the league's statement informs. "And this sum is practically doubled by State and municipal taxation. A big cut in all State and local expenditures should be insisted upon, not at the expense of service, but by business methods and business administration."

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### KING ALBERT VISITS PARIS.

PARIS, Oct. 15.—King Albert of the Belgians arrived here to-day by train from Toulon. After a short visit with President Millerand he left for Brussels in his own airplane.

### CHILEAN CABINET RESIGNS.

SANTIAGO, Chile, Oct. 15.—The Cabinet of Premier Hector Arancibia Laso resigned to-day. The Ministry was formed on August 14 last. The resignation is said to be the outcome of factional controversies concerning the distribution of political patronage.

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Mahogany Library Table, . . .	125.00	60.00
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10-pc. Mahogany Suite, Old Colonial design, . . .	887.50	550.00

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4-pc. Mahogany Chamber Suite, . . .	965.00	695.00
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